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No Crime but Punishment and No Punishment for Crime Mahi Pal Singh

Hundreds of encounter deaths take place in the country every year and over the years this number has multiplied into thousands. Ask any layman and he will tell you that not more than a few hundred of these cases might have been those of actual encounters. Yet no policeman or personnel of para-military forces gets booked on charges of murder even after depriving others of their basic human right of life. Since no case is registered against any of them, no investigation takes place and no question of ever being punished by the court arises even in cases of fake encounters. The immunity from being booked under the law, as provided under Section 197 of the Cr.PC and Section 7 of the Armed Forces Special Powers Act 1958 where permission of the government is required for filing a case in a court of law against the delinquent officials of the police or a member of the armed forces, which practically means that people have no right to approach the court and launch prosecution for atrocities committed by any such officer and this proves encouraging enough to further trample the law under feet. Out of turn promotions and bestowal of awards provide added incentives to become an outlaw to kill in the name of maintenance of law and order or in the name of self-defence. Innocent victims also tend to lose faith in law. This only tends to pave the way for a lawless society. Though the dead ones cannot return and nothing can compensate for the loss of the near and dear ones yet mere registration of an FIR against the policemen in such cases brings back faith in law. Hope of securing justice soothes afflicted hearts if chances of the guilty being punished seem in sight. Unfortunately, that rarely happens.

Consequently innocent people are killed or arrested on charges of being supporters of Maoists, prosecuted and dumped in jails for years and years and ultimately prove 'not guilty' and are released, at least those who are lucky and able enough to traverse the intricate and labyrinthine corridors of our justice delivery system from the trial court to the Supreme Court. But by that time their whole life, and those of their family members, are completely destroyed. And, as always, the perpetrators of the crime of murder, rape, arson and destruction of the life of innocent people enjoy a free life. As a result of the structural failure to book the guilty the Chhattisgarh police and the personnel of the CRPF go on rampage brutally killing about 17 innocent tribals including women and school-going minor children in a village under the Kottaguda Panchayat of district Bijapur in Bastar region on 28-29 June 2012 claiming the incident to be an 'encounter' with "hardcore Naxals" as the Union Home Minister described it. His praise

for the CRPF after the incident only reflects his contempt for the tribal people and their right to live a dignified life and also utter disregard for all ethics of democratic governance, what the government of Chhattisgarh and the Union government have been showing again and again. Reports not only of independent journalists but also of the Congressmen who visited the area after the incident show that indeed those murdered in the incident were innocent villagers. The home ministers of Chhattisgarh and the Union Government should realise that blatant denials of atrocities on the people, which are not based on facts, and are in fact contrary to facts, only further erode their credibility which in any case is already at its lowest ebb. Unfortunately, such incidents are an everyday affair in Chhattisgarh and Jharkhand though they are not a rarity in other parts of the country. This could have stopped and the perpetrators of the crime of 'fake encounters' would have faced prosecution and been punished had an order of the Andhra Pradesh High Court not been stayed by the Supreme Court. In a judgement dated 6th February, 2009 a five judge bench of the Andhra Pradesh High Court consisting of Justice Goda Raghuram, Justice V.V.S. Rao, Justice R. Subhash Reddy, Justice Ramesh Ranghanathan and Justice G. Bhavani Prasad in one such case, on Writ Petition No. 15419 of 2006 (and others) against encounter killings of eight Maoist Naxalites, including five women, on 23.7.2006 at Nallamala forest, Prakasam District of Andhra Pradesh, filed by Andhra Pradesh Civil Liberties Committee and others, including People's Union for Civil Liberties, ruled that the first information relating to the circumstances leading to every encounter death will be recorded and registered as FIR because 'on information conveyed of death(s) in a police encounter

recording and registering of such information is a non-derogable executive obligation u/Sec. 154(1) Cr. P.C.' 'a process that structurally ensures judicial oversight, control and supervision, of the integrity of the investigatorial process', 'treating the information as one relating to commission of the cognisable offence of culpable homicide amounting to murder,' and that in such cases 'an investigation mandated by Section 157 Cr.P.C. must follow,' 'and if in such transaction involving exchange of fire between police officer(s) and civilian(s) there be death(s) of member(s) of law enforcement as well, separate FIRs must be registered - one in respect of death(s) of police personnel and the other relating to the death(s) of civilian(s).' The Court also observed: "Life and liberty are basic human rights ensured to every person in every civilized society. Article 21 of the Constitution mandates that No person shall be deprived of life or personal liberty except according to procedure established by law. This constitutional injunction is to all persons accused of even a heinous or the gravest offence must under the law be charged and convicted by a judicial authority after a due process and infliction of the sanction of deprivation of liberty or extinction of life (as the case may be) must be administered only on the basis of a judicial order.

"As the State does not claim nor suggest any special or extraordinary legislative authority, for employment of lethal force against a Maoist/ extremist/naxalite and adopts the position that the deaths in police encounters are invariably as a consequence of the exercise of the right of private defense by police officers, it is mandatory that the governance process, including the recording, investigatorial and where warranted the charge and trial process must conform to the injunctions of Article 21, and the

requirements of Articles 14 and 19 as well," (Francis Coralie Mullin v. Union Territory Delhi, Administrator (1981) 1 SCC 608), and countering the argument of lowering of the morale of the police in case of putting legal restrictions to regulate their functioning, the Court put a lid over the whole matter by observing that: "In any event the inexorable mandate of law cannot be sacrificed at the altar of expediency or to placate executive phobia of the legal processes."

This would have given a hope of securing justice to the victims' families in future and provided solace to the 6000 families of those killed in fake encounters over the four decades in Andhra Pradesh alone. However, this hope was to be belied and shattered soon. On March 4, 2009 came a verdict of a three-judge Bench of Chief Justice K.G. Balakrishnan, Justice P. Sathasivam and Justice J.M. Panchal of the Supreme Court of India, on a Special Leave Petition (SLP) filed by the A.P. Police Officers Association, represented by senior counsel Harish Salve, staying the judgement of the A.P. High Court.

So long as the men in uniform enjoy the immunity from prosecution even for the gravest crime of murder, incidents like the Kotteguda killing will continue to be repeated. Laws, which provide that immunity, need to be repealed for which Human Rights activists have been agitating for a long time. The judiciary, particularly the Apex Court, also needs to be more rational in protecting the life and liberty of the people and the Constitution of the country and not the draconian laws and the actions of the government, which go against the very spirit of the Constitution and norms of democratic governance. The government also needs to realise that Maoism/Naxalism is a political problem and can be solved only politically through dialogue and not through indiscriminate use of lethal force against the very people it is mandated to protect. □

Press Statement on the Killing of 20 Innocent Tribal People in Bijapur, Chhattisgarh by Police and Paramilitary Forces

The reports of independent journalists have now prima facie established that 20 persons killed recently by the police and security forces ostensibly in an "encounter" in the Kotteguda Panchayat of district Bijapur in Bastar region were all local residents of the village. The dead include school-going children and a woman and several members of one family. That this fact could be brought to light despite statements of the police authorities and even the Union Home Minister that "hard core" Naxals were killed in an encounter, underlines the repeated assertion of the PUCL that a free and independent press in conflict areas is vital to the protection of civil liberties.

We are extremely dismayed by the statement of the State Home Minister Shri Nankiram Kanwar, issued in response to the Congress party forming a fact finding team into the incident, that, "half the Congress leaders are Maoists", showing the

extent to which all dissent is sought to be viewed with suspicion and is even criminalized in the State.

The National Human Rights Commission, through its guidelines issued on 29.03.1997 and revised guidelines issued on 02.12.2003 have made very clear that in these circumstances the following should be done: -

(a) Since in this case an allegation of crime has been made against the security forces, an FIR must be registered to this effect and the investigation into the allegation must be conducted by an agency independent of the concerned police, such as the State CBCID.

(b) Though the State has already announced a Magisterial Enquiry that is mandatory in all cases of death in police action, however it should be ensured that the next of kin and the villagers who were witness to the incident are associated with the

Enquiry. While the Guidelines clearly state that the next of kin should be "invariably" associated, most magisterial enquiries in the State, such as recently in the case of killings of Meena Khalkho (Sarguja) and Gautam Patel (Mahasamund), have been merely empty formalities. (c) Prompt prosecution as well as disciplinary action has been mandated against the delinquent officers in the Guidelines which have also explicitly stated that no out-of-turn promotions or gallantry awards should be bestowed on the concerned officers soon after the occurrence.

Chhattisgarh PUCL demands that the guidelines of the NHRC be followed by the State meticulously in letter and spirit in respect of the fake "encounter" of 28th-29th June in the Kotteguda Panchayat, district Bijapur of the Bastar region.

Sudha Bharadwaj, General Secretary, PUCL Chhattisgarh □

Statement by Campaign for Survival and Dignity

The mass killing in Bijapur, Chhattisgarh, last Saturday by central and State police forces has highlighted one simple fact. The security forces and their Central and State heads have declared war on the adivasis of this area. Only this can explain the extraordinary callousness with which they have responded to Saturday's massacre. Indeed, even the number of those dead is not clear. Some reports say 16, some say 17, and others say 20. As for how many "dreaded Maoists" (to use the media's favorite words) were killed, there too the government is not particularly bothered. According to the Chhattisgarh government on the first day, there were "two"; according to Home Minister Chidambaram, there were "three"; the CRPF DG says there

were "four or five"; now, according to some reports, there were seven. The most likely answer is that of the local community, which is that there were none.

What no one from the government has even bothered to explain yet is why so many people are dead - even if all the government's claims are true. Why were the villagers gunned down? Why were bodies mutilated with axes? Why were women molested and men shot the next morning? These basic questions are something that the CRPF - which calls itself a "police force", not an occupying army - needs to answer. **The claim that the CRPF was fired upon, even if true, is no justification for machine-gunning a village meeting.** Such mass slaughter of innocent people is not

even legal under the laws of war. Indeed, US troops are facing prosecution after their massacre of 25 people in Iraq was exposed - they too claimed they had opened fire in "retaliation" after a bomb blast and a "firing."

But in the "world's largest democracy", the question of prosecution does not even arise. Home Minister Chidambaram nauseatingly refers to Operation Green Hunt as intended to "restore the rule of law" - but now all he has to say is that he is "deeply sorry", that too "if" innocent people died. In his view, the specious claim that three of those killed had "criminal records" justifies them being shot. He and the establishment he heads are not even bothered by the questions and demands of numerous

mainstream parties, including his own, or for that matter those of his fellow cabinet Minister KC Deo. Meanwhile, the CRPF DG has told a news magazine that "it is not our job" to consider who a person is before killing them. The DG, too, shares Chidambaram's view of the world: "If, by bad luck, innocents were hurt, it is a matter of regret."

Is this what the government believes about adivasis - that they can simply be killed at will when convenient for its "counter

insurgency"? Is this the definition of the "rule of law" - where any protest, armed or unarmed, is met with massive force, while massacres of people are met with expressions of "regret"?

The DG let slip the deeper logic of what is happening when he compared the situation in Bijapur to that of Saranda, saying, "What is required is what is happening in Saranda." But, out of 800 acres in Saranda Forest Division, 500 are being sought for mining, while 24

police camps are being built. So this is what is "required" - use indiscriminate firepower, kill innocents, wipe out resistance by calling every protest "Maoist", and deploy thousands of police - so that the area can then be mined to destruction.

The sheer brutality of this vision is the best testament to the collapse of the Indian state's democratic credentials in India's forests and tribal areas.

Sent by C.R. Bijoy (5th July 2012) □

Press Statement by the Asian Human Rights Commission (AHRC) regarding Kotteguda killings in Chhattisgarh

India: Sorry, how deep?

The Union Home Minister, Mr. P. Chidambaram, has said that he is "deeply sorry" for the death of any innocent person during the Central Reserve Police Force (CRPF) firing at Kotteguda panchayat of Bijapur district in Chhattisgarh state. Chidambaram qualified his apology however by saying that "... if any girl, or boy or man or woman not involved with the Maoists at all has been killed, I can only be deeply sorry". The qualifier exposes the shallowness of the minister's apology, and worse the clarity the minister demonstrably lacks as to his responsibility to the nation, its people and in upholding the rule of law.

The statement is the depiction of an alarming scenario, of the enlargement in the scope of arbitrary punishment, a self-assumed state right that could now prevail even in the absence of proof of guilt. The "sorry if" position justifies the shocking mutation in the principle of the state's unqualified responsibility to conclusively prove guilt, into that of the right to punish based on assumptions, proposed in India a decade ago by the infamous Malimath Committee. This conjectural metamorphosis in state responsibility vitally negates crucial

concepts of justice and fair trial and pitches justice institutions to undergo a change in their original engagement architecture through practices and not by the written writ of a legitimate parliament.

Six days after the Kotteguda incident, if the minister is still left to guess as to the details of the persons killed, perhaps he should demit office or at the very least get someone to serve at his office who could brief the minister with facts and figures of incidents concerning national security, particularly when the incident upon which the minister is called upon to assume immediate responsibility is bad enough to be quoted as yet another national shame. If the minister is still uncertain about the background of the persons who lost lives in the incident, does it not contradict the alleged certainty of the assumption upon which the CRPF acted?

The CRPF firing of 29 June is not an incident that could be written off with an apology. Lives the state is bound to protect at all costs have been lost. Had it happened in any state civilised enough to consider human lives as most precious it would have brought down the government and persons responsible for the incident investigated and punished. Or was the minister suggesting, that there are dispensable souls in India, in this

case, the tribal community?

The Kotteguda incident was not home ministry's family fun fair, where unintended feelings of hurt could be excused off with friendly apologies. If the same principle is applied in the Mumbai attack case, the accused, Mr. Mohammed Ajmal Amir Kasab, could be set free should he issue a statement of apology. Legal principles apply equally to suspects, irrespective of the person's background. Being a state agent or a minister only increases the gravity of responsibility, a legal and moral principle apparently lacking appreciation at the home ministry, though the concept has been around before Prof. Michael Walzer's classic, *Just and Unjust Wars*.

Kotteguda firing is far serious than seeking, and if possible obtaining explanations. What is required is proper investigation about what has happened and what led to the killing of villagers, including children. It is not an option that the government 'may' consider, but a constitutional mandate it must comply. That will require an independent agency investigating the incident. Instead, an irresponsible statement like a conditional apology is in fact an insult upon the people and the families that are grieving their dead.

Worse still is the blanket defence the minister offered to the CRPF when he said "...CRPF chief has said he has nothing to hide, nothing to fear ... I do not think any central force has been so transparent ...". Indeed with an assurance like this the CRPF would not have anything to be afraid of. The officers need to be concerned only when there is the possibility of an independent investigation about the incident. It is a mandatory legal requirement that every case of death in encounter must be investigated. It is not a concession. Had there been at least 10 percent possibility for independent investigations in crimes to happen in India, a substantial number of state officers in the country would have been in prisons by now.

Additionally, if the CRPF is the most transparent force in the country, does it imply that others are not? Can the country afford such a proposition, given the number of other armed units of the Indian state engaged in active field duty, like the Border Security Force and the Assam Rifles deployed in the northeast and in Jammu and Kashmir, where these forces are already infamous for crimes they commit with impunity? Now that the minister has admitted the guilt, would there be any action to fasten accountability upon these forces? It could bring down drastically the number of extrajudicial executions reported from India, and will certainly add value to the call to the people living in these regions to join the so called

national mainstream.

The country's agencies are ill equipped, morally and technically, to undertake quality criminal investigations. Had it been otherwise, there would not have been such wide-spread atrocities committed against the tribal and rural communities in India, which is one of the reasons why militant groups could get rooted in remote regions of the country, to the peril of the people and the country.

In fact improving the capacity and quality of criminal investigation has never been a priority for any governments, state or central in the country since independence. 64 years of independent existence has only seen the deterioration of the entire justice apparatus in India, from where the British left, of what they constituted as procedures to administer a colony, an act that fundamentally lacked moral and legal legitimacy.

The honesty of the minister's apology would be tested in the actions that would follow in the coming days. If the minister is serious when he said that the ministry is considering a thorough review of the standard operating procedures of agencies like the CRPF, it must be also based upon scientific and legal findings that would follow from independent investigations into incidents like that happened at Kotteguda.

The government to make this happen has done nothing so far. The scene of crime has been contaminated since long. The government is not even able to

identify what kind of weapons were used, had there been a firing against the CRPF other than unsubstantiated statements by police officers that they were fired upon using muzzleloaders and 303 rifles. No ballistic expert has visited the scene to ascertain, if there were shots fired against the police officers, from where such shots were fired and what weapons were used.

Assumption is not scientific criminal investigation. Unfortunately in the absence of the state's will and the lack of expertise of its agencies, the conclusions in the inquiry ordered into the incident at the moment would be mostly assumptions based on sheer guesswork. There are reports that the injuries sustained by the police officers in the incident are from friendly fires and officers falling into pits since they lacked proper knowledge of the terrain they were deployed.

The apology Chidambaram offered is no reflection of residual guilt. If it is not to be considered as a hollow attempt to explain off the blatant negation of absolute non-combatant immunity, credible and transparent actions must follow. The minister and the CRPF that he commands should fear such actions. It is a legal constraint that the minister, his CRPF chief and other officers down to the constable on the ground must be subjected to. That responsibility cannot be washed off by an apology, since none who lost their dear ones would give it more value than a spent cartridge.

5th July 2012 □

PUCL team appears before the Petitions Committee of Rajya Sabha on the issue of Food Adulteration

A PUCL team consisting of three persons, Dr. Vandana Shiva, an expert on agriculture, Dr. Mira Shiva, an expert on food safety issues and Biraj Patnaik, a Right to Food activist appeared before the Petitions Committee of the Rajya Sabha on 2 July 2012 and made its submission on the menace of Food Adulteration which causes a lot of public health hazards. The Committee was very impressed with the presentation and asked for more information on the issue and will be calling the team again for further deposition.

Kavita Srivastava, National Secretary, PUCL □

Brief Report of the Killing of Adivasis by CRPF Forces in Bijapur District

An all-India fact-finding team of rights activists belonging to the Coordination of Democratic Rights Organisations (CDRO) visited the area in Bijapur district of Chhattisgarh where 17 adivasis died as a result of firing by CRPF forces on the night of June 28, 2012. The team visited the villages of Sarkeguda, Kotteguda and Rajpenta on July 6 and 7 and elicited information about the events. The following is a brief report of the team. A more detailed report will follow in due course.

All three villages are small settlements located close to each other and in the jurisdiction of the Basaguda police station which is located about a km away. There is a CRPF camp at about three km from the three villages. While Sarkeguda with 25 households and Rajpenta (12 households) are in Korsagudem panchayat, Kotteguda with 30 households is in Cheepurupatti panchayat. Most residents of the three villages belong to the Dorla Koya tribe.

About 60 adivasis of these three villages assembled from around 8 pm on June 28 in an open area between Sarkeguda and Kottaeguda. Such meetings where decisions have to be taken collectively are usually held during the night since adivasis are busy with work most of the day. As the sowing season was upcoming, the meeting was held to discuss several issues related to farming including fixing the date for the traditional seed sowing festival known as *bija pondum*- (this was to have taken place a few weeks earlier but was delayed because the pujari who conducts the ritual had died), distribution of land for tilling, lending help to those families who were without cattle, deciding the amount of rent for using the new tractor they had brought and how to raise fish. Arrears of Rs 10,000 due to the

adivasis since two years for tendu leaf collection were paid only recently and they also wanted to discuss what use to put it to. It was a fairly cloudy night and visibility was poor. All those in the gathering were adivasi residents of the three villages and unarmed.

While the meeting was going on, a large contingent of CRPF personnel and CoBRA (Commando Battalion for Resolute Action, a specialised anti-naxalite guerilla unit of the CRPF) commandos numbering well over a hundred, cordoned off the area. According to the villagers, at about 10 pm there was gunfire without any warning. The first burst was from the west and it hit three adivasis who died instantly. This was quickly followed by firing from three other directions. Terrified villagers began screaming and running. Most ran towards their respective villages. Some tried to hide in a hay-storing enclosure. Those who were fleeing for their lives were also fired upon. The firing continued for about 30 minutes after which, as if to survey the dead, the CRPF forces fired two flare guns that lit up the area. The forces stayed on in the area.

It was clear to the fact-finding team that a peaceful gathering of adivasis, none of whom carried any firearms, was surrounded by the CRPF and without any warning fired upon indiscriminately. As a result of this firing, 16 adivasis died — 15 that night and Irpa Suresh (15) in Bijapur hospital the next day. Six of the dead were minors, including a 12 year old girl Kaka Saraswati, daughter of K Rama. She was hit while fleeing towards her house in Kotteguda. Of the other five minors, two — Kaka Rahul (16) and Madkam Ramvilas (16) — were studying in class 10 at a school in Basaguda. Both stayed at a hostel in Basaguda and had come home during the summer vacations.

It was plain slaughter that night near Sarkeguda.

According to the villagers, those who did not die from the bullet wounds were killed by the police with axes they picked up from the village itself. Several eyewitnesses from outside the village, including media-persons who saw the bodies before they were cremated, referred to some of them as having been brutalised with deep hacking cuts on the chests and foreheads.

The 17th victim of this senseless butchery was Irpa Ramesh, husband of I Lachmi and father of three children. After the firing began, he ran and made it to the safety of his house and stepped out at dawn at about 5 am to survey the area. He was fired upon immediately and though he was hit, managed to get back inside his house. The CRPF men followed him in and clobbered him to death with a brick in front of his family members. According to Ramesh's father Irpa Raju, the CRPF men also stole Rs 5,000 from their house. The same night the police also stole Rs 30,000 from Irpa Narayana's house in Rajpenta as well as Rs 2,000 from the house of Madkam Nagesh.

Those killed are:

From Kottaguda: 1. Kaka Saraswati (12), daughter of K Rama; 2. Kaka Sammayya (32), farmer, husband of K Nagi; 3. Kaka Rahul (16), student of Class 10 at Basaguda, son of K Narayana; 4. Madkam Ramvilas (16), student of Class 10 at Basaguda and classmate of Kaka Rahul, son of M Butchiaiah; 5. Madkam Dileep (17), studied upto Class 8 at Pamed, assisted his father M Muttaiah in farming; 6. Irpa Ramesh (30), farmer, husband of I Lachmi, father of three children; 7. Irpa Dinesh (25), farmer, husband of I Janaki, father of four children, younger brother of Irpa Ramesh; 8. Madkam Nagesh (35),

farmer, also a professional dholak player who performed during festivals, husband of M Sammi, father of two children. His wife is pregnant with their third child; 9. Madkam Suresh (30), farmer, husband of M Sammi and father of two children, was younger brother of Madkam Nagesh; 10. Irpa Narayana (45), farmer, husband of I Narsi, father of four children.

From Rajpenta: 11. Irpa Dharmayya (40), farmer, husband of I Bheeme, father of five children; 12. Irpa Suresh (15), studied upto class 5, son of I Chandrayya. Died at Bijapur hospital on June 29.

From Sarkeguda: 13. Sarke Ramanna (25), farmer, husband of S Somulu, father of three children; 14. Apka Meetu (16), son of A Sukhram, helped his father in farming; 15. Korsa Bichem (22), son of K Gutta, worked earlier for a borewell firm at Hyderabad, came home a month ago to help his family in farming; 16. Kunjam Malla (25), farmer, son of K Lakmadu; 17. Madvi Aithu (40), farmer, husband of M Kamli and father of four children.

Six adivasis were injured in the firing. Four of them, Kaka Ramesh (11) and Kaka Parvathi (10), Irpa Chinnakka (40) and Abka Chotu (16) were admitted to hospitals in Bijapur and Jagdalpur and have since returned home after treatment. Madkam Somayya (30) and Kaka Senti (19) were taken to a hospital in Raipur and are still undergoing treatment but are out of danger. Among the injured Kaka Ramesh (13) and his younger sister Kaka Parvathi (11) escaped narrowly. After the firing began, they ran in the direction of their house in Kottaguda and sustained bullet injuries on their left arms. Irpa Munna (26) and Sarka Pullaiah (20) who were also injured were not taken to the hospital by the CRPF. They are being treated with traditional medicine by their fellow adivasis in Sarkeguda and Kottaguda respectively. A few cattle also died in the firing.

The CRPF men camped in the

ground that night and took away 15 of the dead to Basaguda the same night and Irpa Ramesh in the morning. Apart from the injured, they also took along with them about 25 villagers who were let off in the evening. The adivasis went to Basaguda the same day and demanded that the bodies be handed over. The police did so towards evening and the villagers performed their funeral the next day. While some were cremated others were buried. The body of Irpa Dinesh was not returned to the village since, according to the police, he was a Maoist. His body was buried near the police station at Basaguda.

Flouting standard norms, the CRPF men not only carried away the bodies but also scooped away the bloodstained ground beneath the bodies. The Bijapur superintendent of police has gone on record saying that "proper post mortem was conducted by a team of doctors at the Basaguda thana and a report is being prepared". A post mortem has to be conducted at a hospital properly equipped for the routine and not a police thana. Significantly, the villagers are unanimous that no post mortem was carried out, a fact corroborated by several reporters who saw none of the tell-tale marks that show on the body after a post mortem procedure.

The fact-finding team was also told by the villagers that on the morning of the 29th, CRPF men dragged two women to the fields nearby and tore their clothes. Three other women were also abused, beaten up and threatened with rape.

While these are the plain facts, the police establishment — from the Bijapur SP to high-ranking officials in the CRPF establishment — have sought to portray this carnage on adivasi civilians as one of a prolonged exchange of fire with dreaded Maoists resulting in the deaths. Injuries sustained by six CRPF and CoBRA commandoes was repeatedly pointed out. These lies were duly parroted by the political

class headed by Union Home Minister P Chidambaram. Broadly, the initial assertion was that an "Operation Silger" was planned several weeks ago and three teams of the CRPF and CoBRA personnel had planned to converge in an area where they had "intelligence inputs" of a big Maoist gathering. Even before the CRPF men could reach there, they came upon a congregation at Sarkeguda and before they could verify matters, they were fired upon because of which the CRPF men resorted to firing in "self defence" resulting in the death of many Maoists. According to IG (Operations), CRPF Pankaj Kumar Singh "a full-fledged Maoist training camp was being run there and the arrangements were such that if attacked they could wrap up everything and leave in 10 minutes. We have recovered IED's, lot of literature, polythene tents, solar cells and muzzle loading guns."

This is brazen falsehood to explain away a horrible crime. The plea of self-defence is a favourite invocation by the police and paramilitary forces to explain away extra-judicial killings. The fact-finding team is of the firm opinion that there was no exchange of fire and the firing was completely one-sided, emanating only from the side of the special forces. It was unannounced and unprovoked.

The injuries to six CRPF and CoBRA personnel on that night was repeatedly cited by CRPF officers to buttress their argument of an exchange of fire. The fact-finding team noticed dozens of bullet marks on trees around the area where the adivasis had assembled as well as bullet marks on some houses indicating that the adivasi gathering was fired upon from all directions. It is entirely plausible that the six personnel sustained the injuries because of the firing by their colleagues from the other sides. The villagers themselves are of the firm opinion that the six CRPF and CoBRA men were caught in their own crossfire. All adivasi residents that

the fact-finding team spoke to stated emphatically that there were no Maoists present in their gathering and all of those attending the meeting that night were unarmed.

Following reports in the national media that there were a number of civilians, including minors, who were killed, the official version was toned down but the basic argument of armed Maoist presence at the meeting and a bonafide encounter continues to be insisted upon. The CRPF now says that seven of the deceased — Madkam Suresh, Madkam Nagesh, Madvi Ayatu, Kaka Sammayya, Korsa Bijje, Madkam Dilip and Iipa Narayana are Maoists and that there are various cases of violence of a serious nature lodged against them in various police stations across Chattisgarh State. In a macabre take on the death of adivasi civilians, Chattisgarh Chief Minister S Raman Singh said that the Maoists had used the adivasis as human shields and therefore were responsible for the death of civilians!

The more intelligent among the security establishment have now launched a discourse about “unfortunate collateral damage” and how that may be minimized in such engagements in future. Pertinently, there was no way that the CRPF and CoBRA men could have made out the presence of armed people in the gathering on a cloudy night and from the distance they were located at — about 100 metres away. They surrounded the gathering and began firing with murderous abandon. Even if the claim of the CRPF that they were fired upon and were only retaliating is true, there is absolutely no justification whatsoever in unleashing fire on a village gathering. Over many years, terrible violence has visited the area. In particular after a combination of the police and criminal *Salwa Judum* vigilante gangs were let loose on the adivasis in south Bastar since 2005. In a six-month long reign of terror, residents of all three villages have faced attacks by *Salwa Judum* gangs, had

their houses looted and burnt as a consequence of which they migrated, many of them to Khammam district in neighbouring Andhra Pradesh. Two adivasis, Madkam Billa and a minor Korse Bheema of Sarkeguda were also killed by the police at the time. In fact, the adivasis had returned about three years ago and were in the process of rebuilding their lives when the June 28 massacre happened.

In many villages of Korseguda and Cheepurupatti panchayats, instances of police harassment abound. While in the earlier phase of State brutality on adivasis, the common word one heard was that the “judum have done this”, now people say “the forces are causing a lot of problem” alluding to the CRPF and other paramilitary and special police that have been pumped into the area in large numbers over the past two years. The forces, they say, come and position themselves near the villages in the night and fire in the air. “They do this to see if any one comes out and runs so as to kill them.” People of Korseguda, Cheepurupatti and other nearby panchayats go to Basaguda to purchase supplies and also sell some of their produce. “But only the women go since the men will invariably be taken in by the police at Basaguda, questioned, abused, beaten and sometimes detained for weeks on end. The men started staying away after some of them were booked in false cases.”

As the fact-finding team was approaching the three villages, we saw several groups of heavily armed CRPF men in the forest. They viewed us suspiciously but did not intervene in any manner. They were present when the team was on its way back several hours later. Their presence, after having been responsible for the blood-shed a week ago, works against normal and fearless functioning of life in the area. Referring to the announcement by the Chattisgarh government of a judicial enquiry by a sitting High Court judge into the incident, the

adivasis said it would only have any meaning if the enquiry was held in the village itself.

Amidst this inhumanity, there was in evidence a heartening defiance among the adivasis. Unlike during the horrendous mayhem of the early *Salwa Judum*, the adivasis are not considering leaving their villages anymore. Instead, there is a strong sense of the injustice done to them and an urge for redressal. The fact-finding team was witness to relief sent by the government being rejected outright. The SDM of Bhoopalapatnam RA Kuruvanshi had arrived in several vehicles with supplies of rice, dal, clothes and some utensils. Angry villagers virtually shouted him and other officials out of Kottaguda. “You kill our children and now you want to help?” “We are Maoists are we not? Have you come here to give Maoists these supplies?”

The fact-finding team is of the opinion that the mowing down of 17 adivasis on June 28 is a fall-out of the current counter-insurgency strategy of the government in its fight against the Maoists. In Chhattisgarh, time and again this has meant that adivasis perceived of being the support base of the Maoists are being deliberately targeted and subjected to terrible violence. This is an unacceptable violation of the right to life and liberty. Functionaries of the Central and State governments keep stating from time to time that Maoism is not merely a law and order problem but as one having strong socio-economic roots. However, in practice Maoism is being treated as nothing but an outbreak of mere criminality and deployment of killer security forces is seen as the only solution. This policy of brutal suppression must end. It is not our case that the police must turn a blind eye to violence by the Maoists. The police must carry out the task of prevention and investigation of crime but they must do so fully respecting people's rights and must function strictly within the ambit of the law. The government

should implement a policy which seriously addresses issues of social and economic deprivation. It must stop treating the law of the land and the Constitution with contempt. Governments must adopt a political approach to the Maoists in place of the policy of violent suppression that has been the State's principal response all these many years.

Demands:

1. All CRPF and CoBRA personnel who participated in the operation near Sarkeguda village on the night June 28 must be charged under Section 302 of IPC relating to murder and other relevant provisions of the penal code as well as under the SC, ST (Prevention of Atrocities) Act 1989 and prosecuted.
2. The investigation into these cases must be handed over to the CBI or a criminal investigation team under the aegis of the National Human Rights Commission.

3. The Central and State governments must stop the ongoing policy of trying to brutally suppress the Maoists and must address that movement politically.

4. Governments must respect the Fifth Schedule mandate in letter and spirit and the adivasis' right to land, forest and other natural resources in their region. Protective legislation for the adivasis must be sincerely implemented.

Members of the Fact-finding team:

1. Pritpal Singh of Association for Democratic Rights (AFDR), Punjab.
2. Prashant Halder, secretariat member of Association for Protection of Democratic Rights (APDR), West Bengal.
3. Ashish Gupta, of People's Union for Democratic Rights (PUDR) and convener, Coordination of Democratic Rights Organisations (CDRO) from Delhi.
4. R Shiva Shankar, Nellore district

secretary of the Organisation for Protection of Democratic Rights (OPDR) and B Ram Reddy, OPDR Warangal district convener.

5. C Chandrasekhar, State general secretary of Andhra Pradesh Civil Liberties Committee (APCLC), V Chittibabu and D Suresh Kumar State vice-presidents, N Srimanarayana and R Rajanandam State joint secretaries, Gunti Ravi State committee member and Balakrishna and Muralikrishna, members of Kurnool district of APCLC.

6. VS Krishna, State general secretary of Human Rights Forum (HRF), SK Khadar Babu and D Adinarayana, HRF president and general secretary, Khammam district.

AFDR, APDR, PUDR, OPDR, APCLC and HRF are member organisations of CDRO.

Dated: 10-7-2012 □

Press Note: June 27, 2012

'Withdraw Undeclared Emergency: Repeal Draconian Laws'

Unconditional Release of Seema Azad, Vishwa Vijay and all Arrested under Such Laws Demanded

Several human rights organizations, civil society groups and eminent individuals organized an Anti-Emergency Convention, here in the capital on Tuesday, marking the 37th anniversary of the emergency. The convention demanded the release of human rights activist Seema Azad and her husband, Vishwa Vijay, who were recently granted life-term imprisonment by a local court of Allahabad, UP. The speakers at the convention raised serious concerns about draconian laws like UAPA, AFSPA, NSA, its state versions apart from section of 121 IPC, waging war against the Government of India and 124 of IPC, on sedition. All were of the opinion that these laws needed to be scrapped now and that these are all crimes built on intentions as they were tools of oppression and injustice. A section of the media and the judiciary, which

could have questioned the decisions of the executive was increasingly silent on people's suffering, their narrative was that of the Government on these matters. There was unanimity that it was high time we worked towards judicial accountability.

The meeting began by reading of excerpts from Seema's article that was published on the web and the media on child prisoners as to how deprived they were. Veteran journalist and former Member of Parliament, Kuldip Nayar, while inaugurating the convention said, "It is unfortunate that the situation today is not very different from the black days of emergency." "During emergency, the government imposed censorship on the press. But some of us fought back. Similarly today, people need to fight back rather than depend on the government, but today the Media

is not fighting back as it is mostly under corporate control with the journalists on contractual service find themselves weak."

Commenting upon the conviction of Seema Azad and Vishwa Vijay, former Justice of the Delhi High Court Rajindar Sachar said "the judgement of the local court is based on little evidence and little application of mind." He said that it was important that Akhilesh Yadav, the new CM who swears by the name of Lohiya be met requesting him to withdraw this false case and ensure Seema's release. He added that the only allegation against her is that she was in the possession of literature that the prosecution argued was illegal. But between possessing literature and committing an offence is a wide chasm that cannot be bridged by the flimsy arguments brought forth by the prosecution and

accepted by the judge."

Earlier senior counsel at Allahabad High Court and lawyer in the case, Ravi Kiran Jain termed the judgment absurd, pointing out that no investigation was carried out beyond the FIR filed. He said that it is time that the judiciary is questioned and a campaign for judicial accountability and fairness needs to be built. Chitranjan Singh, UP PUCL President shared about Seema's life. He said that it was very clear that she was arrested because she was a vocal person and exposed the Government policies through her writings. Also speaking on this occasion Sh. Anand Swaroop Verma, of Samkaleen Teesri Duniya, Ajay Singh from JSM, Pankaj Singh from Jan Hastakshep, all were very forceful in reminding the participants that this was a political battle and till we would not build a massive political movement, more and more people would be crushed. Paramjeet from the PUDR said that the campaign demanding the repeal of the law on sedition and the UAPA needed to be stepped up. There was good documentation and we needed to plan a strategy to take it up. Writer Neelabh Ashk speaking on the occasion said that we were now living in a police state and till we do not build a big mass campaign the might of the state will not be questioned. He added that every branch of the State Apparatus was involved in denying people their constitutional rights. Whether it is the police, the government, the judiciary or the legislature. Swami Agnivesh said that he has lost faith in the judiciary and that the executive was controlling the judiciary in cases in the name of Maoism and terrorism. He also said that laws like the Land Acquisition Act, 1894 should also be seen as draconian laws. N D Pancholi, President Delhi State PUCL said that the Allahabad court had given a judgement ignoring the

spirit of the Supreme Court judgement in an earlier case, as there was no act of violence committed by Seema Azad and Vishwa Vijay. Expert on Tribal Issues, Himanshu Kumar, VP of Chhattisgarh PUCL said that the various jails, sub jails, in the states where Operation Green Hunt was on had a large number of minor girls, boys and old people who were illegally detained as they had never been legally represented. He announced that he would be taking out a yatra, going from State to State in order to educate the young people of India as they did not know about this silent emergency and the violation of the human rights of masses.

Talking about hundreds of activists and ordinary people languishing in jails across the country on the charges of being either a Maoist or a Terrorist, PUCL Vice President Dr Binayak Sen, who was convicted and is on bail in a similar case said, "I took this message while walking out of the prison that it is our duty to fight for thousands who are imprisoned for no reason." He further said, "The case of Seema and Vishwa Vijay is identical to my case and I will campaign for them along with others." Speaking on the occasion activist Chandrakala who was also thrown into jail in Uttarakhand for more than 18 months in the name of Maoism, said that the Courts and the Police use these draconian laws to humiliate the individuals who are charged with such laws. She shared her experiences of the engagement with the criminal justice system as a prisoner under these laws. Similarly Anu a friend of Seema said that she was sent to jail on the basis of two letters that she had received from Seema Azad, which were nothing but on astronomy and how to read a certain Hindi writer. She shared how the intelligence departments in Delhi are only fabricating false cases

against the people.

Highlighting the cases of communal witch-hunt in the name of counter terrorism, civil rights activist Mahtab Alam argued, "Along with other marginalized communities like Adivasis and Dalits, the Muslim community today is living in a state of emergency." He said, "First they are being ghettoized, besieged and then branded dreaded terrorists." He also expressed serious concerns about attacks on the prisoners booked under the charges of terror. "The Muslim youth is under deep distress and afraid of being picked up and put behind bars for no reason," said Alam.

PUCL National Secretary, Kavita Srivastava, stated that this convention was "just the beginning of our campaign and we will widen it in the coming days." She also informed the gathering that another convention would be organized in the first week of August. She further appealed to write letters of solidarity and send birthday cards to Seema Azad on the occasion of her birthday on 5th of August.

The meeting concluded with the Chairperson Ravi Kiran Jain announcing that the organising groups for the release of Seema Azad and Vishwa Vijay would work towards a broad-based alliance with more organisations, particularly trade unions, student organisations, cultural activists and media persons would be included and very soon the next meeting would be organised. The moderator of the meeting Bhasha Singh also stated that a status paper on the existing situation of violation of human rights of the life and liberty of the people would be put together so that it becomes the basis of a larger mobilisation.

The convention ended with the lighting of a Mashal outside the Gandhi Peace Foundation as a symbolic effort to launch the

campaign for the release of Seema Azad and Vishwa Vijay and all others wrongly confined in Indian Jails in the name of Maoism and terrorism. The programme ended at 10 pm. The meeting began with a song by Nishant group and concluded with singing by several Delhi groups.

We are,

People's Union for Civil Liberties (PUCL), Jan Hastakshep, Citizens for Democracy (CFD), People's Union for Democratic Rights (PUDR), Jan Saskriti Manch, Samkaleen Teesri Duniya, NAPM,

HRLN, AIPWA, NFFWFP, Safai Karamchari Andolan, INSAF, CPHRD, AISA, Samyantar, Pratirodh.com, Vihaan, PDFI, Champa - The Amiya & B.G. Rao Foundation, along with several writers, thinkers and activists. □

Supreme Court order in Arup Bhuyan case - Mere membership of a banned organisation will not incriminate a person:

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
Criminal Appeal No(s). 889 of 2007**

ARUP BHUYAN Appellant (s) VS STATE OF ASSAM Respondent(s)

Order

Heard learned counsel for the parties.

This Appeal has been filed against the impugned judgment of the Designated Court, Assam at Guwahati dated 28.03.2007 passed in TADA Sessions Case No. 13 of 1991.

The facts have already been set out in the impugned judgment and hence we are not repeating the same here except wherever necessary.

The appellant is alleged to be a member of ULFA and the only material produced by the prosecution against the appellant is his alleged confessional statement made before the Superintendent of Police in which he is said to have identified the house of the deceased.

Confession to a police officer is inadmissible vide Section 25 of the Evidence Act, but it is admissible in TADA cases vide Section 15 of the Terrorist and Disruptive Activities (Prevention) Act, 1987.

Confession is a very weak kind of evidence. As is well known, the wide spread and rampant practice in the police in India is to use third degree methods for extracting confessions from the alleged accused. Hence, the courts have to be cautious in accepting confessions made to the police by the alleged accused. Unfortunately, the police in our

country are not trained in scientific investigation (as is the police in Western countries) nor are they provided the technical equipments for scientific investigation, hence to obtain a conviction they often rely on the easy short cut of procuring a confession under torture.

Torture is such a terrible thing that when a person is under torture he will confess to almost any crime. Even Joan of Arc confessed to be a witch under torture. Hence, where the prosecution case mainly rests on the confessional statement made to the police by the alleged accused, in the absence of corroborative material, the courts must be hesitant before they accept such extra-judicial confessional statements.

In the instant case, the prosecution case mainly relies on the alleged confessional statement of the appellant made before the Superintendent of Police, which is an extra-judicial confession and there is absence of corroborative material. Therefore, we are of the opinion that it will not be safe to convict the accused on the basis of alleged confessional statement.

For the reasons stated above, we are in agreement with the impugned judgment so far as it has taken the view that the confessional statement in question cannot be acted upon as the sole basis for conviction of the

appellant.

However, the TADA Court has convicted the appellant under Section 3(5) of the TADA which makes mere membership of a banned organisation criminal. Although the appellant has denied that he was a member of ULFA, which is a banned organisation. Even assuming he was a member of ULFA it has not been proved that he was an active member and not a mere passive member.

In State of Kerala Vs. Raneef, 2011 (1) SCALE 8, we have respectfully agreed with the U.S. Supreme Court decision in Elfbrandt Vs. Russell, 384 U.S. 17 (1966) which has rejected the doctrine of 'guilt by association'. Mere membership of a banned organisation will not incriminate a person unless he resorts to violence or incites people to violence or does an act intended to create disorder or disturbance of public peace by resort to violence (See : also the Constitution Bench judgment of this Court in Kedar Nath Vs. State of Bihar, AIR 1962 SCC 955 para 26). In Clarence Brandenburg Vs. State of Ohio, 395 U.S. 444 (1969) the U.S. Supreme Court went further and held that mere "advocacy or teaching the duty, necessity, or propriety" of violence as a means of accomplishing political or industrial reform, or publishing or circulating

or displaying any book or paper containing such advocacy, or justifying the commission of violent acts with intent to exemplify, spread or advocate the propriety of the doctrines of criminal syndicalism, or to voluntarily assemble with a group formed "to teach or advocate the doctrines of criminal syndicalism" is not per se illegal. It will become illegal only if it incites to imminent lawless action. The statute under challenge was hence held to be unconstitutional being violative of the First and Fourteenth Amendments to the U.S. Constitution.

In United States Vs. Eugene Frank Robel, 389 U.S. 258, the U.S. Supreme Court held that a member of a communist organisation could

not be regarded as doing an unlawful act by merely obtaining employment in a defence facility.

We respectfully agree with the above decisions, and are of the opinion that they apply to India too, as our fundamental rights are similar to the Bill of Rights in the U.S. Constitution.

In our opinion, Section 3(5) cannot be read literally otherwise it will violate Articles 19 and 21 of the Constitution. It has to be read in the light of our observations made above. Hence, mere membership of a banned organisation will not make a person a criminal unless he resorts to violence or incites people to violence or creates public disorder by violence or incitement to violence. Hence, the conviction of the

appellant under Section 3(5) of the TADA is also not sustainable.

The impugned judgment of the Designated Court, Assam at Guwahati dated 28.03.2007 passed in TADA Sessions Case No. 13 of 1991 is set aside and the Appeal stands allowed.

By Order dated 29.10.2007 this Court had directed that the appellant be released on bail on his furnishing adequate security to the satisfaction of the trial court. Security furnished by the appellant in pursuance of Order dated 29.10.2007 shall stand discharged.

.....J.
(MARKANDEY KATJU)

.....J.
(GYAN SUDHA MISRA)

New Delhi;
February 03, 2011. □

PUCL Andhra Pradesh: Press Release: Hyderabad, June 26:

Undeclared Emergency Persists: PUCL AP Demand release of Seema Azad in UP

The Andhra Pradesh unit of People's Union for Civil Liberties (PUCL) expressed concern that an undeclared emergency persists in the country with life and liberty of the people of India being the biggest casualty. Observing the Anti-Emergency Day, it organized a meeting demanding release of its UP Organising Secretary and journalist Seema Azad and her husband, who were sentenced for life for their activities promoting civil liberties.

PUCL state president Jaya Vindhya and Vice President Ch. Narendra taking part in the programme recalled the darkest period in independent India when fundamental rights of the people were suspended by invoking state of emergency on June 26, 1975.

They warned the people that the present day attitude of the government reflected emergency tendencies. They said that at present even human rights defenders are not

spared and a large number of people find themselves booked on false charges and inside the jails without bail being granted to them. They observed that the use of the IPC and over fifty draconian laws legislated by the centre and various States has made such violation very easy, legitimizing the police acts.

PUCL AP also stated that disappearances, false cases and illegal detentions have become rampant in the name of fighting Maoism and Terrorism. It is as though a new wave of counter terrorism has been launched to terrorize people belonging to Minorities, Tribals and Dalit communities and those fighting to save their land, water and forests. Men and women are picked up, sometimes snatched by one agency from another and presented to the world as dreaded Maoists or Terrorists. It deplored that a section of the judiciary too refuses to see the fabrication of cases or the

profiling that is happening and ends up endorsing the decision of the police and the Government.

PUCL AP strongly condemned the most recent and shocking conviction for LIFE of journalist and its UP State Organising Secretary Seema Azad, along with her husband Vihwa Vijay, by a district court in Allahabad against charges of Waging War against the Government of India. Seema who is only 36 years of age, a student of astronomy and social change has been condemned by the lower court to be behind bars all her life. We felt that this decision is completely unacceptable and has to be fought tooth and nail on all fronts.

Observing the UN Day in support of the Victims of Torture, PUCL-AP calls upon the Government of India to immediately ratify the Convention against Torture and Other Cruel inhuman, degrading treatment or Punishment (CAT) and to pass a domestic legislation categorically prohibiting torture immediately. We

also affirm the right of survivors of torture to rehabilitation. PUCL also demands passage of a legislation brining domestic violence within the definition of torture and specific

safeguards protecting women, children, dalits and minorities and to strictly enforce them through human rights institutions and court directions.

Greater Hyderabad President Vittal Rao and General Secretary Aslam also spoke.

Jaya Vindhya, President, PUCL AP □

How are legitimate citizens converted into public enemies?

Iliina Sen

On June 26, as we remembered the clamping down of the internal Emergency on the people of the sovereign democratic republic of India 38-years ago, why is it that our thoughts turn, almost as if drawn by a magnet, to the history of jurisprudence in the city of Allahabad?

The dark history of the Emergency, a time when all civil and constitutional freedoms stood suspended, was triggered by a series of events in the corridors of the Allahabad judicial establishment - a time when the judiciary elected not to oblige the political establishment, and countermanded the irregular election of the politician laying claim to the highest office in the country. Although the entire country underwent a trial by fire after this, the Indian public institutions, especially the judiciary gained hugely in terms of its reputation for independence and fearlessness.

Today, it is another judgement coming out of the judicial corridors at Allahabad that has us mesmerised, and this time for different reasons. The conviction under sections of the IPC and UAPA of Seema Azad and Vishwa Vijay and the sentence of life imprisonment given to them earlier this month has sent shock waves

among Indian citizens not because these two were special people in any sense. Many of us did not know them, but their arrests, trial and conviction has once more highlighted the malevolent way in which the internal security laws like the Unlawful Activities (Prevention) Act (UAPA) are used. More frighteningly, this has demonstrated the close nexus between the prosecuting agencies and the judicial system. The independence of the judicial process on which we once prided ourselves is nowhere in evidence.

The lengthy judgement convicting and sentencing Seema and her husband on charges of waging war against the State rests on the evidence of 14 witnesses, 12 of whom are police personnel involved in their arrest and its documentation, and two others are officials belonging to the telephone department. There is not a single public witness, and in a sense this is fair enough because there is nowhere any mention of anything to be witness to. No act of violence or criminality is alleged anywhere, in which they are supposed to have been involved. The items seized from them and sealed after their arrest have been illegally opened in the police station 'for inspection', and they are assumed to be responsible for certain

literature that is critical of state policy only on the grounds that this was found in their house. Nowhere is there any specific act or deed that endangers the state even attributed to them, and their conviction on serious national security charges is entirely on the basis of generalities. The court's conclusion can only be explained by the fact that the court refused to assume the innocence of the accused.

The judgment pronounced by the sessions court at Allahabad in the case of Seema Azad and Vishwa Vijay is a perfect example of how, in the name of combating terrorism or Maoism, a large number of half-truths, inadmissible evidence, procedural violations and a paranoid piece of legislation can convert legitimate citizens into public enemies. The implied embargo on reading critical literature goes against the spirit of our Constitution. If judicial pronouncements of this nature are allowed to pass into the realm of acceptability, we are really at the beginning of a second National Emergency, with our rights and spaces suspended. The Indian people will no doubt resist this attempt to curtail their constitutional rights; but this time round, do we have the judiciary with us in our struggle? □

Seema-Vishwa Vijay Rihai Manch formally launched at Allahabad as a Broad, Open-ended Coalition

Allahabad, July 7. In a significant breakthrough after two and a half years of the aura of terror built here around the arrest, denial of bail and the recent sentencing to life of Seema Azad and Vishwa Vijay, the

founding conference of the Seema-Vishwa Vijay Rihai Manch was successfully held yesterday evening at the historic Students' Union Hall of the Allahabad University. The hall reverberated with staunch opposition

to the devious frame-up of the activist-journalist couple by UP's Anti-terrorist Squad under the then Mayawati Government. The June 8 judgement by Mr. Sunil Kumar Singh, Additional District and

Sessions Judge, considered bad in law by a number of legal experts, was described as proof of the fact that in matters concerning alleged anti-state offences, sections of the judiciary, particularly the lower rungs, were fast degenerating into mere extension of the police apparatus. The Seema-Vishwa Vijay Rihai Manch, originally intended to be a people's forum at the level of Allahabad or at the most, the state of Uttar Pradesh, at the very stage of its formation seemed poised to develop into a countrywide coalition, not without firm roots among mass organizations and democratic formations of students, peasants, workers and various sections of the intelligentsia. With the active participation of the leadership of the People's Union of Civil Liberties (PUCL), the National Alliance of People's Movements (NAPM) and the Committee for the Release of Political Prisoners (CRPP), the event transcended the local and state boundaries.

Convened and conducted by Mr. Anjani Kumar, now a Delhi-based free-lance journalist and formerly an Allahabad-based student activist with and relative of Seema and Vishwa Vijay, the founding conference was chaired by the PUCL National Secretary Kavita Srivastava; the UP President of the PUCL, Chitaranjan Singh; the renowned social activist and Magsayasay Award holder, Sandeep Pandey; the doyens of progressive Hindi literature Dr Rajendra Kumar and Neelabh; and the veteran trade unionist GP Mishra.

After a couple of inspiring songs by an activist of the Varanasai-based Bhagat Singh Chhatra Manch, Mr. Avinash Mishra, a central figure in Allahabad's Trade Union Co-ordination Committee set the tone of the conference by exhorting the supporters of Seema Azad and Vishwa Vijay to take on the challenge posed by the anti-democratic judgement by demonstrating on the streets of the

city with Maoist literature. "Possessing and reading Maoist literature cannot be allowed to be considered as a crime in a democratic society," he said, even while pointing out the fact that the incriminatory literature shown as seized from the possession of Seema and Vishwa Vijay was actually pointed by the police themselves.

The four central slogans of the Rihai Manch and the campaign were displayed on the banner on the stage: 1. Release Seema Azad and Vishwa Vijay forthwith and unconditionally; 2. Release all the prisoners incarcerated under the draconian Acts and Sections of the law; 3. Repeal the UAPA and other draconian Acts and Sections of the law; 4. Stop the ongoing state repression of people's struggles all over the country.

Beginning at around 3:30 pm, the conference went on for all of 5 hours till about 8:30 pm, with a magnificent politico-literary sum up of the proceedings by Dr Rajendra Kumar. In a nutshell, he called the founding conference of the Seema-Vishwa Vijay Rihai Manch a signal that the silence had at last been broken in the seat of the state's judicial apparatus. He shared the sentiment of the majority of speakers that Seema and Vishwa Vijay were well-known faces and popular for their exemplary work among the progressive and democratic sections of the city, if not the entire eastern part of the state. By first framing them up in a false case and then convicting them, the state machinery had unwittingly filled a vacuum in the arena of people's struggles. The conviction of June 8 had transformed Seema Azad and Vishwa Vijay into the much-needed icons for the younger and the older generations of activists and would-be activists of various radical streams within the people's movement.

Kavita Srivastava held the audience spell-bound as she began with her

personal experience in crusading for the cause of Seema Azad and Vishwa Vijay and went on to generalize about how with a plethora of the relatively new draconian laws like the UAPA and the obsolescent sections of the IPC, such as 121, 121A and 124A and the panicky responses of the security agencies and the increasingly pliant role of the judiciary, an undeclared state of Emergency had come to prevail over the country. It was a major challenge now confronting the defenders of justice and civil and democratic rights. The fight to ensure the release of Seema Azad and Vishwa Vijay had become crucial for the defence of the right of political dissent.

Sandeep Pandey, while exhorting every single person in every nook and cranny of the country to mobilize under the banner of the Seema-Vishwa Vijay Rihai Manch and all such fora, said the time had come to realize the dream that even school children would demonstrate with placards for the release of the activist couple.

Rona Wilson, Public Relations In-charge of the CRPP, in his narration of the experiences of working for the cause of political prisoners and the various issues and fronts of struggle that are being thrown up in this process, asserted that the release of Seema and Vishwa Vijay would and should be the point of common struggle for all political streams, both within and outside the jails across the country.

A structure was formed to address the tasks of the SV Rihai Manch. There would be a Presidium at the head of this coalition, comprising at present Sandeep Pandey, Neelabh and GP Mishra. As per the needs of the hour and the directives of the Presidium, a Convening Committee would shoulder the responsibility of organizing the campaign for the release of Seema Azad and Vishwa Vijay. The Convening Committee, a body ever-expanding by mutual consent, would have Kavita Srivastava, Rona Wilson,

Mohammed Shoaib, Arundhati Dhuru, KK Pande, Chitaranjan Singh, Dr Doodhnath, SR Darapuri, Ajay Singh, Ajani Kumar, Zia ul-haque, Avinash Mishra, Shahnawaz Alam, The list of members to carry out the necessary tasks for the release of Seema Azad and Vishwa Vijay as per the directives of the leading bodies would include the following: Prashant Rahi, OD Singh, Shams Vikas, Saheblal Nishad, Ashok Kumar, Rajeev Yadav, Ritesh Rai, Dinesh Kumar, Suryanarayan Singh, Mohammed Jaid, Krishna Murari Singh, Aseem Satyadev, Sunil Maurya, Prasen, Rampyare Singh. Individuals and representatives of various friendly organizations and groups of various hues and colours would be expected to join voluntarily.

It was decided that a blog/website would be set up soon in order to facilitate interaction between the host of sites and blogs already posting stories about the issues related to the campaign. The email id: svrihaimanch@gmail.com would welcome all inputs from far and near. Among the activities to be finalized shortly by the newly instituted organizational structure are a series of seminars and demonstrations at local levels, a leaflet on the campaign, a folder showing the profile and details of the case, some more designs for posters, banners, and other forms of propaganda. Meetings of journalists, bloggers, creative writers, and conventions at the state and regional levels would be encouraged.

Celebrations on Seema Azad's birthday August 5, a Convention in the state capital Lucknow at the end of July or beginning of August, another convention at Allahabad towards the middle of August (most likely 11th August) are some of the programs already lined up. A seminar at Press Club, Gorakhpur on Sunday 8th July from 11 am onwards would be the first among the series of programs to follow in eastern UP. All are requested to consider this as their own task and common cause and take their own initiative and inform us of their activities, plans and suggestions at our email id or at whichever telephone number you may have access to.

Report issued by: Prashant Rahi, Mobile no: +918394875017. □

All India Conference Of Citizens For Democracy: 14/15 July 2012.

A Report

All India Conference Of Citizens For Democracy (CFD) was held at Gandhi Peace Foundation, New Delhi on 14th & 15th July 2012. CFD was established in April 1974 by Lok Nayak Jayprakash Narayan during those tumultuous days when democratic institutions were under severe strain. The main objective of CFD was stipulated to preserve, defend and strengthen Democracy in the country without involving in power politics or party politics. It did commendable work in various fields like electoral reform, land reforms, campaigns against corruption, communalism and casteism, campaign for autonomy for Radio & T.V., jail reform for anti defection law, campaign for promoting people to people friendship between India and Pakistan and investigations into violations of human rights in various parts of the country. However, since 1997 CFD was not functioning for certain reasons. Keeping in view the prevailing growing frustration and dissatisfaction of the people at large with the present deterioration of the political, social and economic conditions in the country, there was

a strong demand from the old members to revive and reorganize CFD. In response to that the aforesaid conference was held.

A Large number of representatives from various parts of the country, notably from Bihar, Jharkhand, Uttar Pradesh, Gujarat, Rajasthan, Maharashtra, Karnataka, Kerala and Punjab, in addition to Delhi, had participated in the conference. Shri Kuldip Nayar inaugurated the conference on 14th July and Shri Ashis Nandy presided over it.

In the beginning Shamsul Islam and Neelima Sharma from Nishant Natya Manch alongwith their team welcomed the delegates by chanting revolutionary songs. N.D.Pancholi briefly stated the context in which the conference was being held.

Shri Kuldip Nayar in his inaugural address said that organizations like Citizens For Democracy were need of the hour for strengthening democracy and civil liberties in the country. It was unfortunate that CFD remained inactive for about 14 years. He said that all citizens and organizations who are concerned with the present appalling political,

social and economic situation, should come together to save democracy.

Chairing the inaugural session, eminent sociologist Ashis Nandy said that the Indian state has become too powerful and centralized and there is a need to strengthen the fight for democratic rights. He said that those who want to safeguard democratic values and democratic rights in the country should take specific issues and fight for people's rights for specific purpose. Referring to Anna Hazare's movement against corruption, he said that people have started thinking that Lokpal, once established, would be the most costly bureaucrat to buy and would be terrible source of corruption. He said that Jayprakash Narayan formed Citizens for Democracy in an attempt to build a more humane society. The organization needs to start its activity again. However he raised doubts over the Presidential form of government and said that in a country like India, Presidential form of government is not likely to succeed, on the other hand it will worsen the situation. Justice (Rtd.)

Rajinder Sachar welcomed the move to re-activate CFD and advocated the repeal of sedition and other draconian laws. He said that first Prime Minister of the country Jawahar Lal Nehru had said that a law like sedition would have no place in independent India. "Unfortunately in independent India we have made such laws more harsher," he said. Dr. Ramji Singh said that party system was the source of all corruption. He said that electoral reforms were the need of the hour to enable the people to have meaningful control over their representatives.

Noted environmental activist SR Hiremath emphasized a movement to restore people's rights over natural resources to strengthen the democracy. Many other speakers participated. However all were of the opinion that people's struggles should be organized and strengthened to defend democratic rights and promote democratic values in the country.

Representatives from various parts of the country expressed their anguish over the present regressing situation in the country and were of the opinion that money power was controlling and spoiling democratic institutions leading to failures of people's struggles and campaigns for protecting their rights to forest, water and land and there is gross violation of civil liberties and human rights. Another ill effect of money power was that right kind of people are not able to be elected as representatives in Parliament and State Legislatures. Media is also being misused by the vested interests. Judicial system is also not functioning to the satisfaction of the people. In such a situation it was necessary to re-organise and re-activate 'Citizens for Democracy.' On 15th July 2012, the next day, Shri S.Y. Qureshi, Former Chief Election Commissioner delivered his main speech on 'Electoral Reforms'. He spoke of his experiences and

started from positive note. He stated that it was not appropriate to condemn politicians, bureaucracy and judiciary in matters relating to holding of elections. He said that Election Commission in India is an independent body and its independence has been respected by all other institutions. So far there has been no allegation against the Election Commission of favoritism or partisanship. He said that politicians and political parties have strengthened Election commission. Similarly bureaucracy and judiciary have also rendered valuable help to it in maintaining its integrity and independence. The role of bureaucracy is commendable as it has helped in holding, by and large, free and fair elections from time to time, especially in remote and difficult areas of the country. The commission has also received commendable help from media and civil society. The vigilant civil society groups and citizens as well as certain section of media give timely help in exposing the unfair means adopted by certain politicians and parties to enable the commission to take immediate steps to check the evil. He said that democracy is a growing system and it is for the people to strengthen and preserve it.

Thereafter Shri Qureshi delved on negative aspects. He said that our election system is threatened by a few challenges. The first challenge is the entry of tainted politicians. Previously some politicians were getting support from criminals, but now criminal elements have themselves started contesting elections. Another challenge was use of money power in the elections. He said that it was a matter of great concern that moneyed people are contesting elections to preserve their vested interests and this was leading to large-scale corruption in the country. Another challenge was "Paid News". The most important challenge to the election system is

"Voters Apathy".

Shri Qureshi suggested that in order to clean politics, it was necessary to debar those candidates who are accused of serious criminal offences and against whom charges were framed six months before the declaration of election. To the argument that an accused is deemed to be innocent till proved guilty, he said that large number of accused facing trial are lodged in various jails in India and notwithstanding that they are deemed to be innocent, their rights to liberty, occupation, movement and dignity is restrained, and therefore why the right of such accused facing serious charges should not be curbed by debarring them from contesting elections. He further suggested that there should be transparency in functioning of political parties, misuse of religion in politics should be checked, "Paid News" should be declared as electoral offence. He strongly opposed "Opinion Polls" and expressed his apprehension that vested interests are capable of getting any kind of Opinion Poll in the way they desire.

In order to further strengthen the election commission he said that same protection be given to the tenure of other two Election commissioners as is provided to the Chief Election Commissioner, its secretariat should be independent and budget of Election Commission should get direct funds from the central funds as is the case with judiciary. Most important suggestion was that voters must be educated to understand the importance of voting and participating in the elections. However, he did not favour the demands for "right to reject" and "right to recall".

A lively discussion followed and some representatives stressed the need for "right to reject" and "right to recall".

In the next session some important decisions were taken towards future activities of CFD and a few resolutions were passed:

1. It was decided to prepare a Demand Draft for Electoral Reforms and send the same to the Chief Election Commissioner and the Prime Minister, discussions should be organized in various states and thereafter a National Conference should be organized in Delhi in Nov/ Dec 2012 on Electoral Reforms.

2. A seminar / discussion should be organized in Delhi on the issue of Judicial Accountability Bill pending in Parliament, if possible in August, 2012.

3. It was resolved that an appeal should be made to the Naxal groups as well as governments to stop violence against each other and come to negotiating table.

4. The conference expressed its shock and concern that even after 25 years of horrendous incident which took place in July 1887 in village Oinam and surrounding areas in Senapati district in Manipur, mostly inhabited by Naga people, where large number of innocent residents were killed, injured, their women raped, properties looted and burnt by the soldiers of Assam Rifles, no compensation has been paid to the victims and that even the judgment in the criminal case filed against the guilty officials of the Assam Rifles

has not been announced though the arguments were heard by the Court in 1991 and judgment reserved. The judgment which was expected to redress the grievances of the tortured and victimized people of that area and punish the guilty officials never came though more than twenty years have passed since it was reserved for announcement after conclusion of arguments. The conference resolved that memorandum should be presented on behalf of CFD to the Central Government as well as the government of Manipur that victims of Oinam carnage should be immediately adequately compensated, guilty should be punished and Arms Forces (Special Powers) Act should be repealed.

5. Annual membership of the CFD was decided to be Rs.100/- and it was also decided that members of the political parties should not be eligible to be members of CFD while efforts should be made to enroll non-party social, dalit & cultural activists, intellectuals, youth and women. State conferences should be held.

6. A national council was constituted. Kuldeep Nayar was elected as the President, Dr. Ramji Singh and S.R. Hiremath as Vice-Presidents, N.D. Pancholi as General Secretary,

and Satyendra Ranjan and Anil Sinha as Secretaries. Names of national council members would be announced soon as consent of some of the persons whose names have been proposed is awaited. The conference ended with vote of thanks. The participants included, amongst others, Dr. Ramji Singh, Ramsharan, Raman Kumar, Priyadarshi, Surender Kumar & Sheodayal from Bihar; Ghanshyam and Manthan from Jharkhand; S.R. Hiremath from Karnataka, Gautam Thaker & Mahadev Vidrohi from Gujrat; Amitabh from MP; TRN Prabhu from Kerala; Bhawani Shanker, Hanuman Sahay Sharma & Ramender Kumar from Rajasthan; Sheik Hussian, Kishan Gordia from Maharashtra; Prof. M.K. Das from UP; Nafisa Ali, K. Zimik, Fr. T.K. John, Sanjeev Shaswat, Massoma Ali, Syed Akhlaq Ahmad, Abu Bakr Sabhag, Surendra Kumar, B.D. Sharma, Dipavali Debroy, Bhawna Sharma, Shivakant, Premchand, Dr. D.K. Giri, Satyendra Ranjan, Gopa Joshi, Bhabani Dixit, Meetpal Singh, Kuldeep Singh Arora, A.S. Saini, Ajay, P.T. Gopal, Mohd. Bilal Shabga, Azharuddin Khan, Chaturbhu, A.K. Arun, Prasun Latant, Rajendra Rajanm, Mahi Pal Singh and Manimala all from Delhi. **N.D. Pancholi, General Secretary** □

Press Release: On the Hazards of White Asbestos to Public Health: 5 July 2012

Govt Must Stop Import of White Asbestos to Prevent Public Health Disaster

Indo- Canada Free Trade Agreement Should Exclude White Asbestos Trade

New Delhi, July 5, 2012: Even as the central Government has publicly revealed that it does not favour carcinogenic chrysotile asbestos (white asbestos) mineral fibers anymore, a consortium of mostly Indian investors have successfully lobbied hard to rejuvenate the asbestos mines in Quebec, Canada. This mineral fiber has pre-

dominantly been used in the construction industry before its incurable disease causing nature came to light. Government of India must resist efforts of Canadian government to dump the cancer causing fibers of white asbestos on to present and future generation of Indians. Unmindful of the epidemic of

asbestos related diseases, Provincial Government of Quebec's decision to loan \$58 million to one of the country's two remaining asbestos mines has outraged environmental, health, labour and human rights organizations. This loan will cover more than two-thirds of the cost of renovating and reopening the Jeffrey asbestos mine

in Asbestos town of Quebec. Ignoring the moral responsibility to save fellow human beings in India from exposure to asbestos fibers, Quebec government has chosen to be act like a an impediment to global cancer control as white asbestos causes lung cancer.

Disregarding the concerns of doctors and asbestos victims, this effort will also be funded by private investors, led by Balcorp Ltd., who will add another \$25 million. As per figures available, Canada exported 750,000 tons of asbestos in 2006. India has been one of the major importers of Canadian asbestos. The Quebec government loan is aimed at reviving one of Canada's last asbestos mines, assuring exports of carcinogenic fibers for another 20 years.

It is noteworthy that use of asbestos is banned in some 58 countries including the European Union, Japan, Australia and others. Due to lack of awareness of its health hazards white asbestos has been used in India but ministry after ministry is waking up its dangers and realize that safe and controlled use of asbestos is impossible as is indicated by the misinformation campaign of the global asbestos industry.

ToxicsWatch Alliance (TWA) urges the Quebec government to reconsider its decision and cancel the loan guarantee and help the asbestos disease affected communities in the developing countries. This decision of the Quebec government gives the impression that in Canada either asbestos industry and the government are one entity or government is subservient to the lust for blind profit at human cost.

Government of India took the right step on June 21, 2011 when at a meeting of UN's Rotterdam

Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade disassociated itself from Canada and other asbestos producing countries in order to get white asbestos listed in the PIC list of hazardous materials. The listing requires would-be exporters of asbestos to warn governments of developing nations on what is being brought to their countries. It was unbecoming of Canadian government to block the efforts to list it under the parochial influence of Quebec asbestos interests.

"The Government of India is considering the ban on use of chrysotile asbestos in India to protect the workers and the general population against primary and secondary exposure to Chrysotile form of Asbestos." It has noted that "Asbestosis is yet another occupational disease of the Lungs which is on an increase under similar circumstances warranting concerted efforts of all stake holders to evolve strategies to curb this menace". A concept paper by Union Ministry of Labour revealed this at the two-day 5th India-EU Joint Seminar on "Occupational Safety and Health" on 19th and 20th September, 2011. (<http://www.labour.nic.in/lc/Background%20note.pdf>)

Members of Indian National Congress led United Progressive Government, Cabinet Committee on Economic Affairs must act to make India free of carcinogenic asbestos fibers by paying heed to what Union Environment Ministry's Vision Statement that says, "Alternatives to asbestos may be used to the extent possible and use of asbestos may be phased out". (<http://moef.nic.in/divisions/cpoll/envhealth/visenvhealth.pdf>) It should respond to National Human

Rights Commission (NHRC)'s notice issued to it. NHRC issued a notice to the central and states government in the matter of incurable asbestos related diseases on July 6, 2011 and reiterated on June 5, 2012. (<http://nhrc.nic.in/dispArchive.asp?fno=2334>)

Government of India should also set up a compensation fund to provide compensation to the asbestos victims by making asbestos companies liable for knowingly exposing workers, consumers and citizens to asbestos fibers. It may be noted U.S., Dow Chemicals Company has set aside \$2.2 billion in compensation fund to address future asbestos-related liabilities arising out of acquisition of Union Carbide Corporation (UCC) and its Indian investments in 1999. If Dow can assume responsibility for asbestos-induced illnesses among victims in USA, why then it should deny responsibility towards the victims of Bhopal and its continuing toxic legacy. UCC formerly made products containing asbestos, and UCC once mined asbestos for sale to customers. The mine of the UCC was sold in 1985. Hundreds of thousands of people have sued asbestos companies that made products containing asbestos. Many manufacturers of asbestos-containing products are bankrupt as a result of asbestos litigation.

India has taken a position that it considers white asbestos as a hazardous substance. Mining of asbestos is technically banned in India. Trade in asbestos waste (dust and fibers) is also banned. Now government should take the next logical step and phase out asbestos use. Government of India should take immediate steps to ban this killer fiber to save the present and future citizens of the country from incurable lung diseases. After central

ministries of environment, labour, mines and chemicals underlined the hazardous nature of asbestos and asbestos based products, ministry of railways has announced phasing out of asbestos based roofing materials from all the railway platforms in India.

It is noteworthy that a massive protest against an upcoming white asbestos based plant of Kolkata based Utkal Asbestos Limited (UAL) Industries Ltd at Goraul, Vaishali, Bihar on June 14, 2012 has forced the district administration to order stoppage of construction work till further orders. A tripartite meeting on June 30, 2012 with the asbestos company, villagers and the district officials failed to satisfy the villagers. TWA was present at the meeting. In the face of global, national and local movement against such plants which are referred to as Time Bombs for lungs, the construction of lung cancer causing white asbestos plants in Vaishali, Madhubani, West Champaran and production in Bhojpur districts only shows that Bihar Government has adopted Ostrich policy. Dr Barry Castleman's world's foremost expert on asbestos has sent a letter to Bihar Chief Minister asking to side with the villagers and not with the management of the asbestos factory to prevent public health disaster.

Earlier, Kerala State Human Rights Commission made three recommendations banning use of asbestos roofs in its order dated January 31, 2009. The recommendations are: "a) The State Government will replace asbestos roofs of all school buildings under its control with country tiles in a phased manner. b) The Government will take steps to see that the schools run under the private management also replace the asbestos roofs with country tiles by

fixing a time frame. c) The Government should see that in future no new school is allowed to commence its functions with asbestos roofs." Notably, after 2 years of struggle of villagers and all the left and socialist parties in opposition, Bihar State Human Rights Commission announced that the white asbestos plant that was under construction in Chainpur-Bishunpur village, Jakhra Sheikh Panchyat, Marwan block of Muzaffarpur has now been wound up. All State Human Rights Commissions are likely to initiate steps to make their states asbestos free by taking cognisance of the above facts.

Not only in Bihar, villagers are protesting against the proposed hazardous asbestos cement roofing factory at Naagaon-Lebidi villages, Sohella Block, Bargarh district, Odisha. The company M/s Viswakarma Roofings Ltd. intends to establish 150,000 tonnes per annum of asbestos cement sheets manufacturing project. In Sambalpur's Parmanpur village in Odisha too villagers are agitating against the hazardous asbestos based factory of Visaka Asbestos Industries. It is noteworthy that Visaka Industries was promoted as a joint venture between G Vivekanand (a Member of Parliament from Indian National Congress) and the Andhra Pradesh Industrial Development Corporation.

Such hazardous plants are being protested against in other States like Himachal Pradesh and Andhra Pradesh as well. Environmental groups in Himachal are against the setting up of lung cancer causing asbestos based plant at Trilokpur Road in Kheri village of Nahan Tehsil in Sirmaur district. They are demanding asbestos free State. A fact-finding team visited Ramco

Asbestos Industries plant in Maksi, Madhya Pradesh in July 2011 and found that workers were working with Russian asbestos with any protection from the killer fibers of white asbestos. Another similar team visited four asbestos units near Vijayawada in August 2011 to take stock of the situation at the sites of Visakha Industries Limited, Jujjuru village, Veerulapadu Mandal, Krishna district, Hyderabad Industries Ltd, IDA in Kondapalli, Ramco Industries Ltd in Ibrahimpatnam and proposed factory site of Sahyadri Industries Ltd in Narasimharaopalem in Andhra Pradesh. The team found that villagers were never informed about the incurable diseases caused by exposure from asbestos fibers. The team interacted with former workers of asbestos factories. The workers informed that they were made to give written undertaking that the company will not be responsible for their health after they quit the job. Some of the members of the fact finding team like Dr Babu Rao, a Hyderabad based chemical scientist had raised objections at the public hearing of the asbestos plant of Sahyadri Industries Ltd which has been recorded in the official minutes on April 21, 2011. The team met a former worker who was sick from asbestos exposure near Visakha Asbestos plant at Jujjuru but he never got any treatment beyond routine medicines. Unmindful of human cost of such factories there was a public hearing for expansion of Visakha's plant on June 6, 2012 amidst protest.

Unmindful of the epidemic of asbestos related diseases due to past exposure, new factories are coming up in Uttarakhand and Uttar Pradesh (UP). In UP's Raebareilly, the white asbestos based plant of Visaka Industries reveals that business enterprises have misled

political parties like Indian National Congress, the central and state government into ignoring ban on it by almost all the developed countries.

It is quite disturbing that asbestos cement based building materials is being used in the Union Rural Development Ministry's Indira Awas Yojna. Central government's Rs 10, 000 crore worth annual housing flagship scheme endangers the rural poor as it is using carcinogenic asbestos sheets to keep the cost below the ceiling of Rs 45,000 per house under the scheme.

Government of India should resist asbestos industry's influence in public interest and desist from signing the "Comprehensive Economic Partnership Agreement" (CEPA) with Canada that allows the export of cancer causing Canadian asbestos to India. The New Democratic Party (NDP) of Canada, the official Opposition party has revealed the efforts of Canadian Prime Minister, Stephen Harper government's to eliminate trade tariffs on exports of lethal Canadian asbestos to India. "It is a disgrace that the Harper government has opposed the global effort to ban this substance," NDP said in a release dated December 5, 2011. (Reference:<http://www.ndp.ca/press/harper-government-plans-to-increase-asbestos-exports-to-india>) TWA salutes the stance of NDP with regard to asbestos trade. Indian political parties like Indian National Congress should learn something from NDP. Government of India should pay heed to the World Health Assembly Resolution which requested WHO to carry out a global campaign for the elimination of asbestos-related diseases. The

resolution of ILO in June 2006 stated, "the elimination of the future use of asbestos and the identification and proper management of asbestos currently in place are the most effective means to protect workers from asbestos exposure and to prevent future asbestos-related diseases and deaths." How can such glaring scientific and medical facts be ignored?

While it is quite alarming that Baljit Chadha, President, Montreal based Balcorp Ltd secured loan from Quebec government on June, 29, 2012 in the aftermath of the meeting between Prime Minister Manmohan Singh and Stephen Harper on the sidelines of the G-20 summit in Mexico. This appears to reveal the tremendous influence of Chrysotile asbestos cement products manufacturers association in India, global asbestos industry in general and Canadian asbestos industry in particular.

In 2011-12, in the union budget, the Finance Minister had announced that those affected by asbestos related diseases would be covered under Rashtriya Swasthya Bima Yojna. Given the fact that asbestos related diseases are preventable but incurable, this is hardly sufficient. The only way to prevent the deadly diseases is to prevent mining, trade, manufacturing and use of all forms of asbestos and asbestos based products.

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